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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

I. D. #5008

RESOLUTION E-3953

November 18, 2005

R E S O L U T I O N

Resolution E-3953. San Diego Gas and Electric (SDG&E) revenue requirement associated with Ramco Generating One (Ramco), including modifications to SDG&E's Non-fuel Generation Balancing Account and Energy Resource Recovery Account approved.

By Advice Letter 1711-E, Filed on July 26, 2005.

SUMMARY

This resolution approves SDG&E's request updating its revenue requirement associated with the purchase of Ramco, including modifications to SDG&E's Non-fuel Generation Balancing Account (NGBA) and Energy Resource Recovery Account (ERRA).

Resolution E-3896 directed SDG&E to file an advice letter prior to the in-service date of the Ramco to true-up the base purchase price and to include detailed supporting documentation showing that the base purchase price adjustments are consistent with the provisions of the purchase Agreement approved in resolution E-3896. The resolution also directed SDG&E to use the currently applicable return on equity (ROE) of 10.37% into the fixed revenue requirement calculation. (Resolution E-3896, p.8)

This Resolution approves the updated revenue requirement associated with the purchase of a Ramco, including modifications to SDG&E's NGBA and ERRA.

BACKGROUND

On June 9, 2004, the Commission issued D.04-06-011. In that decision, the Commission approved the Term Sheet between SDG&E and Ramco, where Ramco agreed to design, permit, and construct a 45 MW combustion turbine (CT) in Chula Vista, California. The Commission found that the Ramco acquisition was supported

by the record, and stated, “We approve the terms and conditions in the Term Sheet ... and we will approve it [the contract] when it is submitted to the Commission. However, we do not approve the cost recovery, ratemaking, and revenue requirement proposals as presented by SDG&E at this time” (D.04-06-011, page 41)

Ordering Paragraph #8 of D.04-06-011 directed SDG&E to file advice letters, or tariffs, as appropriate and necessary to implement the orders, conclusions, and results reached in that decision regarding SDG&E’s Grid Reliability request for proposal (RFP.)

Accordingly, on September 8, 2004, SDG&E filed AL 1621-E for final approval of the SDG&E/Ramco Turnkey Acquisition Agreement (TAA) and requested approval of associated cost recovery and ratemaking mechanisms.

On January 27, 2005, the Commission issued resolution E-3896 and approved SDG&E’s TAA with Ramco. Resolution E-3896 directed SDG&E to file an advice letter prior to the in-service date of the Ramco to true-up the base purchase price and to include detailed supporting documentation showing that the base purchase price adjustments are consistent with the provisions of the purchase Agreement approved in resolution E-3896. The resolution also directed SDG&E to use the currently applicable ROE of 10.37% into the fixed revenue requirement calculation.

The updated fixed revenue requirement associated with the purchase of Ramco is \$505,500.

In accordance with resolution E-3896, on July 26, 2005, SDG&E filed AL 1711-E and requested the Commission’s approval for the updated revenue requirement associated with the purchase of a Ramco, including modifications to SDG&E’s NGBA and ERRRA. SDG&E indicated that this filing represents the pre in-service date true-up advice letter and it would acquire title and initiate operation of the Ramco CT on or shortly after July 26, 2005.

The updated fixed revenue requirements of \$505,500¹ include changes to the following revenue requirement inputs:

1. ¹ The original revenue requirement filed in AL 1621-E was \$520,100.

1. Purchase price: The various adjustments to the Ramco purchase price, shown in Attachment B of AL 1711-E, have resulted in a total increase of \$897,700.
2. Escalation Factor: The escalation factors were initially used based on 2nd quarter 2003 Global Insight Forecasts and are being updated in AL 1711-E to reflect the most current forecast, the 1st quarter 2005 Global Insight Forecasts. The escalation factors update resulted in following changes:
 - a. The average monthly fixed O&M costs included in the fixed monthly revenue requirement changed from \$22,600 to \$23,800.
 - b. The materials and supplies cost increased by \$21600.
 - c. The commissioning and mobilization cost rate base increased by \$10,900.
 - d. Variable O&M non-fuel rate changed to \$5.93 per MWh from \$5.76.
3. In accordance with Ordering Paragraph 3 of Resolution E-3896, the fixed monthly revenue requirement is being updated to reflect the return of equity (ROE) of 10.37%.
4. The net start-up and testing costs updated to reflect actual natural gas prices instead of forecasted costs, the update resulted in a decrease of \$285,200.
5. In service date changed from 6/1/05 to 7/26/05 and revenue requirement was updated to reflect the change.

NGBA and ERRA were also modified to reflect these changes.

Although Ramco has certified the facility complete, a few outstanding disputes between Ramco and its subcontractors prevented Ramco from promptly closing. SDG&E and Ramco have agreed on how to deal with those disputes.

In addition, Ramco and SDG&E have a pending dispute over the amount of the sales taxes.

NOTICE

Notice of AL 1711-E was made by publication in the Commission's Daily Calendar. SDG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

Ramco and SDG&E have a pending dispute over the amount of the sales taxes.

On August 15, 2005, Ramco protested SDG&E AL 1711-E. Currently, Ramco and SDG&E have a dispute over the payment of sales/use tax. Ramco believes that SDG&E should pay \$1.3 million for sales tax while SDG&E believes that it owes only \$4,000 as sales tax. Both parties have agreed to resolve this issue by arbitration per provisions of the contract. SDG&E has not included any sales tax in its current revenue requirement and has requested the opportunity to submit a second updated advice letter filing to update its revenue requirement to incorporate expenses for litigation of this matter and payment to Ramco.

Ramco, in its protest, requests that the commission should include the \$1.3 million in the SDG&E revenue requirement update and that SDG&E should file a second advice letter in the event the dispute would be resolved in favor of SDG&E and reduce its revenue. Ramco states that

“The Commission does not need to decide whether Ramco or SDG&E would prevail in this dispute over the \$1.3 million. However, the Commission should find that it is appropriate to include this disputed amount in the current revenue requirement update so that the update provides a clear picture of the potential total revenue requirement.”

Ramco also asserts that the dispute will be addressed through the contract’s formal arbitration process unless the parties are able to reach an agreement before that time.

On August 22, 2005, SDG&E filed a reply to Ramco’s protest. In its reply, SDG&E states that it is premature at this time to include the disputed amount as part of the revenue requirement and recommended a further update to the advice letter. SDG&E also argues that the inclusion of \$1.3 million at this time as Ramco proposes would run the risk of charging ratepayers for an additional item which they may not be liable.

DISCUSSION

Energy Division has reviewed AL 1711-E and its attachments and supports approving the updated revenue requirement associated with the purchase of a Ramco, including modifications to SDG&E’s NGBA and ERRRA. The updated fixed monthly revenue requirement is \$505,500.

Energy Division has reviewed AL 1711-E and finds it in compliance with resolution E-3896. The modifications to NGBA and ERRA are in compliance with applicable rules.

Ramco's protest should be denied.

SDG&E and Ramco have a dispute related to the payment of sales/use tax. Ramco believes that SDG&E should pay \$1.3 million for sales tax while SDG&E believes that it owes only \$4,000 as sales tax. Both parties have agreed to resolve this issue by arbitration per provisions of the contract. SDG&E has requested to submit a second update to its current advice letter after the resolution of this dispute.

Ramco has filed a protest and requested that the commission should include the \$1.3 million in the SDG&E revenue requirement update and that SDG&E should file a second advice letter in the event the dispute would be resolved in favor of SDG&E and reduce its revenue. In its reply to Ramco's protest, SDG&E asked the Commission to deny Ramco's request. Based on the provisions in the contract regarding the arbitration process, SDG&E argues that it is premature at this time to include the disputed amount as part of the revenue requirement.

The Energy Division has reviewed the protest and supports SDG&E's position. The contract identifies two venues for arbitration to address disputes between Ramco and SDG&E, Fast-Track schedule or other which requires a resolution within six (6) months. Section 16.2.3. of the contract states:

“Within sixty (60) days following the Effective Date, Ramco and SDG&E shall agree upon an independent third party mutually acceptable to both Parties (the “Fast-Track” Arbitrator”) and an alternate third party (the “Alternate”) to decide disputes to be referred to Fast-Track Arbitration as provided in this Section 16.2.3.....Arbitrator or the Alternate, as the case may be, shall be directed to resolve the dispute within fifteen (15) days of the referral.....”

In addition, Section 16.2.4. of the contract states:

“For matters not involving the Fast-Track Arbitrator or Alternate, the arbitration shall be decided by one (1) arbitrator unless otherwise agreed to by the Parties.....The arbitrator shall render its award within six (6) months after the initial notice and demand for arbitration under Section 16.2.2.”

Therefore, based on the provisions in the contract this dispute should be resolved within six months or earlier. We agree with SDG&E that that the inclusion of \$1.3 million at this time as Ramco proposes would run the risk of charging ratepayers for an additional item which they may not be liable. At that time SDG&E should file an advice letter to update its revenue requirement based on the outcome of the arbitration.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS

1. Resolution E-3896 directed SDG&E to file an advice letter prior to the in-service date of the Ramco to true-up the base purchase price and to include detailed supporting documentation showing that the base purchase price adjustments are consistent with the provisions of the purchase Agreement approved in resolution E-3896.
2. On July 26, 2005, SDG&E filed Advice Letter 1711-E, in compliance with Resolution E-3896.
3. On August 15, 2005, Ramco protested Advice Letter 1711-E and requested that the commission should include the \$1.3 million for sales tax, which is currently the subject of dispute between Ramco and SDG&E, in the SDG&E revenue requirement update.
4. On August, 22, 2005, SDG&E filed a timely reply protest requesting the Commission to deny Ramco's request.
5. It is premature at this time to include the disputed amount as part of the revenue requirement. Ramco's request should be denied.
6. Based on the outcome of the arbitration, SDG&E should file an advice letter to update its revenue requirement.

IT IS ORDERED THAT:

1. We approve SDG&E's Advice Letter 1711-E.
2. Based on the outcome of the arbitration, SDG&E should file an advice letter to update its revenue requirement

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on November 18, 2008; the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

October 12, 2005

ID#5008 RESOLUTION E-3953
Commission Meeting November 18, 2005

TO: PARTIES TO San Diego Gas and Electric (SDG&E) ADVICE LETTER
1711-E

Enclosed is draft Resolution Number E-3953 of the Energy Division. It will be on the agenda at the next Commission meeting, which is held at least 20 days after the date of this letter. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution.

An original and two copies of the comments, with a certificate of service, should be submitted to:

Jerry Royer
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

A copy of the comments should be submitted to:

Sepideh Khosrowjah
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Fax: 415-703-2200

Any comments on the draft Resolution must be received by the Energy Division by October 27, 2005. Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, and 3) the Director of the Energy Division, on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on November 2, 2005, five days after comments are filed, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

Strauss, Robert L.
Energy Division

Enclosure: Service List
Certificate of Service

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution E-3950 on all parties in these filings or their attorneys as shown on the attached list.

Dated October 12, 2005 at San Francisco, California.

Jerry Royer

NOTICE

Parties should notify the Energy Division, Public Utilities
Commission, 505 Van Ness Avenue, Room 4002
San Francisco, CA 94102, of any change of address to
insure that they continue to receive documents. You
must indicate the Resolution number on the service list
on which your name appears.

Service List – R.01-10-024

aamirali@calpine.com; abb@eslawfirm.com; aivancovich@caiso.com;
ajo@cpuc.ca.gov; Alex.Goldberg@williams.com; andrew@simpsonpartners.com;
angela.kim@fticonsulting.com; anthony.des.lauriers@powerex.com;
armi@smwlaw.com; atencate@drintl.com; atrowbridge@downeybrand.com;
bcragg@gmssr.com; bellery@spi-ind.com; beth.fox@sce.com;
bill.owen@adelphia.net; bjeider@ci.burbank.ca.us; blaising@braunlegal.com;
Bob.Belhumeur@cox.net; braun@braunlegal.com; brbarkovich@earthlink.net;
brflynn@flynnrci.com; bruce.foster@sce.com; bshort@ridgewoodpower.com;
bxw@cpuc.ca.gov; cab@cpuc.ca.gov; cabaker906@sbcglobal.net;
case.admin@sce.com; ccastagnoli@henwoodenergy.com; cem@newsdata.com;
CentralFiles@semprautilities.com; ceyap@earthlink.net; cfm3@pge.com;
chris@emeter.com; chrischouteau@earthlink.net; christine-
henning@alliancepower.com; ckingaei@yahoo.com; ckt@cpuc.ca.gov;
claufenb@energy.state.ca.us; cleni@energy.state.ca.us; clyde.murley@comcast.net;
cmkehrein@ems-ca.com; cmurchie@seia.org; cmw@cpuc.ca.gov;
consumersvoice@aol.com; cpe@cpuc.ca.gov; cpuccases@pge.com;
csteen@bakerlaw.com; curtis.kebler@gs.com; cwootencohen@earthlink.net;
d.d.gilligan@worldnet.att.net; dale@dgpowers.com; daniel.fessler@hklaw.com;
danielle.merida@bingham.com; dbachrach@nrdc.org; dcasentini@drintl.com;
dcengel@nexant.com; deb@a-klaw.com; dgulino@ridgewoodpower.com;
dhoffman@celerityenergy.com; dhungerf@energy.state.ca.us; dick@adm-
energy.com; dickerson02@fscgroup.com; djh@cpuc.ca.gov; dkates@sonic.net;
dkk@eslawfirm.com; dks@cpuc.ca.gov; dmarcus2@sbcglobal.net; dmg@cpuc.ca.gov;
dnorris@sppc.com; douglass@energyattorney.com; dpeaco@lacapra.com;
dsaul@solel.com; dsh@cpuc.ca.gov; dws@r-c-s-inc.com; ecl8@pge.com;
edchang@flynnrci.com; edwardoneill@dwt.com; ehull@ci.chula-vista.ca.us; ek@a-
klaw.com; eklinkner@ci.pasadena.ca.us; ell5@pge.com; energy@palco.com;
enpex@aol.com; eparker@qcworld.com; e-recipient@caiso.com;
excetral.caldwell@williams.com; filings@a-klaw.com; fortlieb@sandiego.gov;
frank.cooley@sce.com; freedman@turn.org; fxg@cpuc.ca.gov;
gayatri@jbsenergy.com; gig@cpuc.ca.gov; gwright@semprautilities.com;
GLBarbose@LBL.gov; gmmorris@emf.net; grosenblum@caiso.com; gtbl@dynegy.com;
guildrenee1@aol.com; hal@rwitz.net; Hhitchens@SempraSolutions.com;
hrait@energy.state.ca.us; j0b5@pge.com; jackmack@suesec.com; jackwood@gv.net;
Jozenne@semprautilities.com; james.booth@hklaw.com;
james.caldwell@ppmenergy.com; jblunden@kema-xenergy.com;
jcervantes@sandiego.gov; jcpaine@stoel.com; jeffgray@dwt.com;

jennifer.holmes@itron.com; jerryl@abag.ca.gov; jf2@cpuc.ca.gov;
jgalloway@ucsusa.org; jim.mcdermott@rusheen.com; jimross@r-c-s-inc.com;
jkarp@whitecase.com; jlaun@apogee.net; jleblanc@bakerlaw.com; jleslie@luce.com;
jlo@cpuc.ca.gov; jmarlan@water.ca.gov; jmckinney@thelenreid.com;
JMcMahon@navigantconsulting.com; jmh@cpuc.ca.gov; joe.paul@dynegy.com;
johnrredding@earthlink.net; jon.jacobs@paconsulting.com;
jonwelner@paulhastings.com; JKloberdanz@semprautilities.com;
jpacheco@water.ca.gov; jpoole@realenergy.com; jrosenbaum@whitecase.com;
jskillman@prodigy.net; jsqueri@gmssr.com; jtachera@energy.state.ca.us;
jweil@aglet.org; karen@lindhandassociates.com; kdw@woodruff-expert-
services.com; keith.mccrea@sablalaw.com; KMorton@Sempra.com; kellyl@enxco.com;
kent.palmerton@constellation.com; Kevin.Simonsen@LW.com;
kgriffin@energy.state.ca.us; khojasteh.davoodi@navy.mil; kip.lipper@sen.ca.gov;
kjk@kjkammerer.com; kjsimonsen@ems-ca.com; klatt@energyattorney.com;
kmills@cbbf.com; kms@cpuc.ca.gov; kok@cpuc.ca.gov; kpp@cpuc.ca.gov;
lau@cpuc.ca.gov; laura.genao@sce.com; lawrence.lingbloom@sen.ca.gov;
lcottle@whitecase.com; liddell@energyattorney.com; LUrlick@Sempra.com;
lisaweinzimer@sbcglobal.net; llk@cpuc.ca.gov; lmh@eslawfirm.com;
lp1@cpuc.ca.gov; lrm@cpuc.ca.gov; lsherif@calpine.com; lterry@water.ca.gov;
lwhouse@innercite.com; MABolinger@lbl.gov; magq@pge.com;
mary.tucker@sanjoseca.gov; mbrubaker@consultbai.com;
mclaughlin@braunlegal.com; mday@gmssr.com; mdeange@smud.org;
mdjoseph@adamsbroadwell.com; meb@cpuc.ca.gov; mflorio@turn.org;
mfogelman@steefel.com; mhyams@sfwater.org; mike.mace@ncpa.com;
mjaske@energy.state.ca.us; mjskowronski@inlandenergy.com; mlgillette@duke-
energy.com; mpa@a-klaw.com; mrh2@pge.com; mrw@mrwassoc.com;
mshames@ucan.org; mtheroux@jdmr.net; nao@cpuc.ca.gov; nes@a-klaw.com;
nil@cpuc.ca.gov; norman.furuta@navy.mil; npedersen@hanmor.com;
nrader@calwea.org; Patrick.Dougherty@lw.com; patrickm@crossborderenergy.com;
paulfenn@local.org; pepper@cleanpowermarkets.com; petertbray@yahoo.com;
pha@cpuc.ca.gov; phanschen@mofo.com; placourciere@thelenreid.com;
ppettingill@caiso.com; psd@cpuc.ca.gov; pucservice@manatt.com; pva@cpuc.ca.gov;
pvanmidde@earthlink.net; ram@cpuc.ca.gov; rberliner@manatt.com;
rberman@ios.doi.gov; rhwiser@lbl.gov; rliebert@cbbf.com; rmccann@umich.edu;
rmd@cpuc.ca.gov; rmiller@energy.state.ca.us; robert.pettinato@ladwp.com;
Robert_Anderson@apses.com; RochmanM@spurr.org; rocky.ho@fticonsulting.com;
rroth@smud.org; rsa@a-klaw.com; rschmidt@bartlell.com;
rshortz@morganlewis.com; rsparks@caiso.com; rtanton@psyber.com;
rtavares@energy.state.ca.us; rwalther@pacbell.net; sara@oakcreekenergy.com;

savama@consumer.org; sberlin@mccarthyllaw.com; scarter@nrdc.org;
scasey@sfwater.org; scott.anders@sdenergy.org; sed@cpuc.ca.gov;
shaunao@newsdata.com; shilton@mofo.com; sia2@pwrval.com; sjl@cpuc.ca.gov;
slins@ci.glendale.ca.us; smunson@vulcanpower.com; sro@cpuc.ca.gov;
srupp@rwbeck.com; sscb@pge.com; sschleimer@calpine.com; ssmyers@att.net;
sst@cpuc.ca.gov; steve_ponder@fpl.com; stevegreenwald@dwt.com;
SNelson@sempra.com; steven@iepa.com; steveng@destrategies.com;
tara.dunn@dgs.ca.gov; terry.houlihan@bingham.com; theresa.mueller@sfgov.org;
thixson@mdbe.com; tim.muller@williams.com; todoc1@aol.com; ttschamler@kema-
xenergy.com; vfleming@navigantconsulting.com; vjw@cleanpower.org;
vjw3@pge.com; vwood@smud.org; wbooth@booth-law.com; wendy.davis@sce.com;
william.kissinger@bingham.com; woodrujb@sce.com; wsm@cpuc.ca.gov